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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,631	03/23/2004	Neal H. Avery	52206/THD/A631	4033
23363	7590	08/18/2005	EXAMINER	
CHRISTIE, PARKER & HALE, LLP PO BOX 7068 PASADENA, CA 91109-7068			PHAM, MINH CHAU THI	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 08/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/807,631	Applicant(s) AVERY, NEAL H.	
	Examiner Minh-Chau T. Pham	Art Unit 1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/16/04 & 3/23/04</u> . | 6) <input type="checkbox"/> Other: ____ |

Double Patenting

Claims 1-50 are rejected under the judicially created doctrine of double patenting over claims 1-82 of U. S. Patent No. 6,610,116 B1 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: An air filter system configured to clamp to an airline air nozzle comprising a two-part housing and a filter held between the first and second sections of the housing wherein the first and second sections of the two-part housing are separable from one another to facilitate removal and replacement of the filter media, and wherein the housing is configured to direct air from the air supply nozzle through the filter medium.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See MPEP § 804.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1, 3-6, 9-13, 15, 18, 19, 21-22, 24-27, 31-44, 46-48 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sinclair (5,567,230), in view of Reeves (5,912,369).

Sinclair discloses an air filter system (10) configured to clamp to an airline air nozzle (52) comprising a two-part housing (12, 14) and a filter (16) held between the first (14) and second sections (12) of the housing wherein the first and second sections of the two-part housing are separable from one another to facilitate removal and replacement of the filter media, and wherein the housing is configured to direct air from the air supply nozzle (52) through the filter medium (16), and a mounting guide (34). Sinclair further discloses the filter medium is a disposable medium comprising an electrostatically charged polypropylene non-woven membrane (col. 3, lines 49-52). Sinclair also discloses a method for filtering air comprising the steps of clamping a filter medium to an air supply nozzle, directing air from the air supply nozzle through the filter medium wherein the filter medium is contained within a separable two-part housing, and adjusting air flow by turning the housing having pivoting air outlet nozzle which is attached to the housing to facilitate aiming of air exiting the housing (see Figs. 3-5). Sinclair further discloses the first and second housing members could permanently bonded together by any conventional means including adhesives, thermal bonding, retaining members, etc. (col. 5, lines 18-25). Claims 1, 3-6, 9-13, 15, 18, 19, 21-22, 24-27, 31-44, 46-48 and 50 differ from the disclosure of Sinclair in that the air filter system has an adhesive foam pad disposed on the exterior surface of the inlet port. Reeves discloses that the filter media can be foam gasket. Reeves further discloses an

adhesive formed upon the foam gasket for attaching the air filter system to an air supply ventilation nozzle. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to apply an adhesive as taught by Reeves upon the foam gasket of the air filter system of Sinclair since the adhesive promotes the attachment of the filter media to the ventilation nozzle without the need of any tools.

Claims 2, 16, 23 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sinclair (5,567,230), in view of Benasutti (6,093,227).

Claims 2, 16, 23 and 45 call for detents to hold the two parts of the filter housing together. Benasutti discloses a bayonet detents to hold the two parts of the housing together (12, 14, 16, 43, 44, 52, 58, 60 & 70 in Fig. 2, col. 1, lines 11-24, col. 3, line 8 through col. 4, line 33, col. 4, line 56 through col. 5, line 19). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a bayonet detents as taught by Benasutti in the filter housing of Sinclair since the detents would promote the filter housing assembly for disassembly for easily filter change out.

Allowable Subject Matter

Claims 7, 8, 14, 17 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: None of the prior arts discloses an air directional nozzle attached to an outlet port of the filter housing and movable relative to the outlet port.

Claims 28-30 and 49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: None of the prior arts discloses the air filter system comprising a plurality of fingers extending from the filter housing and a clamp sleeve urging the plurality of fingers to move inwardly so as to grasp the air supply nozzle when the sleeve is moved.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Chau T. Pham whose telephone number is (571) 272-1163. The examiner can normally be reached on Mon/Tues/Thur/Fri 7:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'Minh-Chau Pham', written in a cursive style.

Minh-Chau Pham

Patent Examiner

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August 15, 2005